

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**JAMES DEFERIO,**

**Plaintiff,**

**v.**

**ATTORNEY DECLARATION**

**Civil Action No.: 5:16-CV-0361  
(LEK/TWD)**

**CITY OF SYRACUSE; FRANK FOWLER,**

In his official capacity as Chief of Police for the City of Syracuse Police Department, **JOSEPH SWEENEY**, individually and in his official Capacity as Captain for the City of Syracuse Police Department, and **JAMEY LOCASTRO**, individually and in his official capacity as Sergeant for the City of Syracuse Police Department,

**Defendants.**

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TODD M. LONG, pursuant to Section 1746 of Title 28 of the United States Code, under the penalty of perjury, to the best of my knowledge, declares:

1. I am duly admitted to practice law before this Court.
2. I am also an Assistant Corporation Counsel for the City of Syracuse (“the City”), and represent in the above-entitled action JOSEPH SWEENEY (“Capt. Sweeny”) individually and in his official capacity as Captain for the City of Syracuse Police Department, and JAMEY LOCASTRO (“Sgt. Locastro”) individually and in his official capacity as Sergeant for the City of Syracuse Police Department (collectively “Defendants”).
3. Being sufficiently familiar with the facts and circumstances of this case, this Declaration is made in opposition to Plaintiff’s motion, made pursuant to 42 U.S.C. § 1988 and Federal Rules of Civil Procedure (“Fed. R.Civ. P.”) 54(d) for Attorney’s Fees and Non-Taxable Expenses.

4. Attached as **Exhibit “1”** is a true and accurate copy of Plaintiff’s “Task-based time fee statement of Center for Religious Expression,” which was Exhibit “C” to Plaintiff’s “Motion For Attorney’s Fees And Non-Taxable Expenses” (*see* Dkt. No. 131-4), that has been altered with yellow highlighting by Defendants in order to reflect what Defendants have identified as unreasonably vague time entries.

5. Attached as **Exhibit “2”** is a true and accurate copy of the Plaintiff’s Verified Complaint filed in *Deferio v. City of Ithaca, et al.*, 5:08-cv-01211-GTS-GJD (N.D.N.Y. Feb. 12, 2009), as downloaded from CM/ECF NextGen on or about April 4, 2018.

6. Attached as **Exhibit “3”** is a true and accurate copy of the “Memorandum In Support Of Plaintiff’s Motion For Preliminary Injunction” filed in *Deferio v. City of Ithaca, et al.*, 5:08-cv-01211-GTS-GJD (N.D.N.Y. Feb. 12, 2009), as downloaded from CM/ECF NextGen on or about April 4, 2018.

7. Attached as **Exhibit “4”** is a true and accurate copy of the “Affidavit of James Deferio” in support of Plaintiff’s Motion for Preliminary Injunction, filed in *Deferio v. City of Ithaca, et al.*, 5:08-cv-01211-GTS-GJD (N.D.N.Y. Feb. 12, 2009), as downloaded from CM/ECF NextGen on or about April 4, 2018.

8. Attached as **Exhibit “5”** is a true and accurate copy of Plaintiff’s Verified Complaint filed in *Deferio v. Bd. of Tr. of State Univ. of New York*, 1:11-cv-00563-GTS-RFT, 2014 WL 295842 (N.D.N.Y. 2014), as downloaded from CM/ECF NextGen on or about April 4, 2018.

9. Attached as **Exhibit “6”** is a true and accurate copy of the “Memorandum In Support Of Plaintiff’s Motion For Preliminary Injunction” filed in *Deferio v. Bd. of Tr. of State Univ. of New York*, 1:11-cv-00563-GTS-RFT, 2014 WL 295842 (N.D.N.Y. 2014), as downloaded from CM/ECF NextGen on or about April 4, 2018.

10. Attached as **Exhibit “7”** is a true and accurate copy of the “Affidavit of James Deferio” in support of Plaintiff’s Motion for Preliminary Injunction, filed in *Deferio v. Bd. of Tr. of State Univ. of New York*, 1:11-cv-00563-GTS-RFT, 2014 WL 295842 (N.D.N.Y. 2014), as downloaded from CM/ECF NextGen on or about April 4, 2018.

11. Attached as **Exhibit “8”** is a true and accurate copy of Plaintiff’s “Task-based time fee statement of Center for Religious Expression,” which was Exhibit “C” to Plaintiff’s “Motion For Attorney’s Fees And Non-Taxable Expenses” (*see* Dkt. No. 131-4), that has been altered with light blue highlighting by Defendants in order to reflect what Defendants have identified as unreasonably excessive and duplicative time entries.

12. Attached as **Exhibit “9”** is a true and accurate copy of Plaintiff’s “Task-based time fee statement of Center for Religious Expression,” which was Exhibit “C” to Plaintiff’s “Motion For Attorney’s Fees And Non-Taxable Expenses” (*see* Dkt. No. 131-4), that has been altered with red highlighting by Defendants in order to reflect what Defendants have identified improperly billed “clerical” work and with orange highlighting overbilled “paralegal” work.

13. Therefore, based upon the Defendants’ Memorandum of Law and the exhibits attached to this Declaration, Defendants respectfully request that this Court: (a) deny Plaintiff’s Attorney Fees and Non-Taxable Expenses; or, in the alternative, (b) accordingly reduce Plaintiff’s Attorney Fees and Non-Taxable Expenses, (c) and any other relief that this Court deems just and proper.

Pursuant to Section 1746 of Title 28 of the United States Code, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on April 19, 2018

**(SIGNATURE PAGE TO FOLLOW)**

/s/

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Todd M. Long, Esq.  
Assistant Corporation Counsel  
Federal Bar Roll No. 519301